

SENATE BILL 643

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II

2004 Regular Session
4r1645
CF 4r2066

By: **Senator Astle**
Introduced and read first time: February 6, 2004
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 29, 2004

CHAPTER _____

1 AN ACT concerning

2 **Mortgage Lenders - Sole Proprietors - Qualifications for Licensure**

3 FOR the purpose of authorizing the Commissioner of Financial Regulation to issue a
4 mortgage lender license to an applicant who is a sole proprietor and who does
5 not meet a certain experience requirement under certain circumstances;
6 specifying the conditions under which a sole proprietor may be licensed under
7 this Act; prohibiting a sole proprietor who is licensed under this Act from aiding
8 or assisting a borrower to obtain a loan from a financial institution other than
9 the financial institution identified in the license application; prohibiting a sole
10 proprietor who is licensed under this Act from being compensated for mortgage
11 brokerage activities on a certain basis or receiving a certain finder's fee;
12 prohibiting a sole proprietor who is licensed under this Act from handling
13 borrower or other third party funds in connection with the brokering or closing
14 of a mortgage loan ~~with a certain exception~~; prohibiting a sole proprietor who is
15 licensed under this Act from referring a borrower to another licensee;
16 prohibiting a sole proprietor who is licensed under this Act from making
17 mortgage loans; allowing a sole proprietor who is licensed under this Act to
18 forward a certain check to a certain financial institution; and generally relating
19 to the qualifications for licensure of sole proprietors as mortgage lenders.

20 BY repealing and reenacting, with amendments,
21 Article - Financial Institutions
22 Section 11-506
23 Annotated Code of Maryland
24 (2003 Replacement Volume)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Financial Institutions

2 11-506.

3 (a) To qualify for a license, an applicant shall satisfy the Commissioner that
 4 the applicant is of good moral character and has sufficient financial responsibility,
 5 business experience, and general fitness to:

6 (1) Engage in business as a mortgage lender;

7 (2) Warrant the belief that the business will be conducted lawfully,
 8 honestly, fairly, and efficiently; and

9 (3) Command the confidence of the public.

10 (b) (1) [To] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, TO
 11 qualify for a license, the applicant shall satisfy the Commissioner that the applicant
 12 has at least 3 years of experience in the mortgage lending business.

13 (2) If the applicant is a sole proprietor, the applicant shall have the
 14 required experience.

15 (3) If the applicant is a joint venture, or general or limited partnership,
 16 at least one of the coventurers or general partners shall have the required experience.

17 (4) If the applicant is a business entity of any other kind, type, or
 18 classification, at least one of the principal officers or members shall have the required
 19 experience.

20 (C) (1) THE COMMISSIONER MAY ISSUE A LICENSE TO AN APPLICANT WHO
 21 IS A SOLE PROPRIETOR AND WHO DOES NOT MEET THE EXPERIENCE REQUIREMENT
 22 UNDER SUBSECTION (B) OF THIS SECTION IF:

23 (I) THE APPLICANT:

24 1. IS A LICENSED INSURANCE PRODUCER IN GOOD
 25 STANDING UNDER § 10-103 OF THE INSURANCE ARTICLE; AND

26 2. HOLDS AN APPOINTMENT AS AN INSURANCE PRODUCER
 27 FOR AN INSURER THAT CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON
 28 CONTROL WITH A FINANCIAL INSTITUTION DESCRIBED IN § 11-502(B)(1) OF THIS
 29 SUBTITLE;

30 ~~(I)~~ (II) THE APPLICANT AGREES TO LIMIT THE APPLICANT'S
 31 ACTIVITIES TO BROKERING MORTGAGE LOANS MADE BY A THE SINGLE FINANCIAL
 32 INSTITUTION IDENTIFIED UNDER ~~§ 11-502(B)(1) OF THIS SUBTITLE~~ ITEM (1)2 OF THIS
 33 PARAGRAPH;

34 ~~(II)~~ (III) THE FINANCIAL INSTITUTION AND AFFILIATED INSURER
 35 WITH WHICH THE APPLICANT HOLDS A CURRENT APPOINTMENT IS ARE IDENTIFIED
 36 IN THE APPLICANT'S APPLICATION;

1 (IV) THE COMMISSIONER APPROVES THE SELECTION OF THE
2 FINANCIAL INSTITUTION BASED ON THE FOLLOWING CRITERIA:

3 1. THE FINANCIAL INSTITUTION IS IN GOOD STANDING
4 WITH ITS PRIMARY STATE OR FEDERAL REGULATOR; AND

5 2. THE FINANCIAL INSTITUTION IS IN MATERIAL
6 COMPLIANCE WITH APPLICABLE STATE OR FEDERAL LAW;

7 ~~(III)~~ (V) THE APPLICANT MEETS ALL OTHER REQUIREMENTS FOR
8 LICENSURE AS A MORTGAGE LENDER UNDER THIS SUBTITLE;

9 ~~(IV)~~ (VI) THE APPLICANT HAS SUCCESSFULLY COMPLETED AT
10 LEAST 20 HOURS OF CLASSROOM INSTRUCTION IN RESIDENTIAL MORTGAGE
11 LENDING COURSES AS PROVIDED IN REGULATIONS ADOPTED BY THE
12 COMMISSIONER AND ACHIEVED A PASSING GRADE ON A WRITTEN EXAM DEVELOPED
13 AND ADMINISTERED BY THE PERSON THAT CONDUCTS THE CLASSROOM EDUCATION
14 COURSE;

15 ~~(V)~~ (VII) AN AUTHORIZED REPRESENTATIVE OF THE FINANCIAL
16 INSTITUTION IDENTIFIED UNDER ITEM (I)2 OF THIS PARAGRAPH SIGNS THE LICENSE
17 APPLICATION; AND

18 ~~(VI)~~ (VIII) THE FINANCIAL INSTITUTION IDENTIFIED UNDER ITEM
19 (I)2 OF THIS PARAGRAPH AGREES TO:

20 1. SUPERVISE THE APPLICANT ~~AS REQUIRED BY THIS~~
21 ~~SUBTITLE, INCLUDING PROVIDING DIRECTION THROUGH WRITTEN INSTRUCTIONS~~
22 ~~OR ELECTRONIC MEANS AND BY PERIODICALLY EXAMINING THE APPLICANT'S~~
23 ~~BOOKS, RECORDS, AND OTHER ASPECTS OF THE BUSINESS; AND~~

24 2. BE HELD JOINTLY AND SEVERALLY LIABLE WITH THE
25 APPLICANT FOR CLAIMS ARISING OUT OF THE APPLICANT'S MORTGAGE BROKERING
26 ACTIVITIES.

27 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A
28 SOLE PROPRIETOR WHO IS ISSUED A LICENSE UNDER THIS SUBSECTION MAY NOT:

29 (I) AID OR ASSIST A BORROWER TO OBTAIN A LOAN FROM A
30 FINANCIAL INSTITUTION OTHER THAN THE FINANCIAL INSTITUTION IDENTIFIED IN
31 THE APPLICATION FOR THE LICENSE;

32 (II) 1. BE COMPENSATED BY ANY PERSON FOR MORTGAGE
33 BROKERAGE ACTIVITIES ON A BASIS THAT DEPENDS ON THE LOAN AMOUNT,
34 INTEREST RATE, FEES, OR OTHER TERMS OF THE BROKERED LOAN; OR

35 2. RECEIVE A FINDER'S FEE, AS DEFINED UNDER TITLE 12,
36 SUBTITLE 8 OF THE COMMERCIAL LAW ARTICLE;

1 (III) HANDLE BORROWER OR OTHER THIRD PARTY FUNDS IN
2 CONNECTION WITH THE BROKERING OR CLOSING OF MORTGAGE LOANS, ~~EXCEPT~~
3 ~~THAT THE SOLE PROPRIETOR MAY FORWARD TO THE FINANCIAL INSTITUTION A~~
4 ~~CHECK FROM THE BORROWER MADE PAYABLE TO THE FINANCIAL INSTITUTION FOR~~
5 ~~COSTS IN CONNECTION WITH AN APPLICATION FOR A MORTGAGE LOAN; OR;~~

6 (IV) REFER A BORROWER TO ANY OTHER LICENSEE UNDER THIS
7 SUBTITLE; OR

8 ~~(IV)~~ (V) MAKE MORTGAGE LOANS.

9 (3) A SOLE PROPRIETOR WHO IS ISSUED A LICENSE UNDER THIS
10 SUBSECTION MAY FORWARD A CHECK TO THE FINANCIAL INSTITUTION IDENTIFIED
11 UNDER PARAGRAPH (1)(I)2 OF THIS SUBSECTION IF:

12 (I) THE CHECK IS MADE PAYABLE TO THE FINANCIAL
13 INSTITUTION FROM A BORROWER; AND

14 (II) THE CHECK IS IN CONNECTION WITH AN APPLICATION FOR A
15 MORTGAGE LOAN TO COVER COSTS FOR:

16 1. AN APPRAISAL;

17 2. A CREDIT REPORT; OR

18 3. PROCESSING AN APPLICATION.

19 [(c)] (D) The Commissioner may deny an application for a license to any
20 person who has been officially reprimanded or has committed any act that would be a
21 ground for suspension or revocation of a license under this subtitle.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2004.